



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG-2018-1008]

RIN 1625-AA08

Special Local Regulations; Sector Upper Mississippi River Annual and Recurring Marine Events Update

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to amend and update its table of annual and recurring marine events that take place within the Sector Upper Mississippi River Captain of the Port Zone as well as to make a technical correction to the text of § 801 contained in Title 33 Code of Federal Regulations (CFR) Part 100, hereafter referred to as 33 CFR 100.801. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments identified by docket number USCG-2018-1008 using the Federal eRulemaking Portal at <https://www.regulations.gov>. See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email Lieutenant Commander Christian Barger, Sector Upper Mississippi River Waterways Management Division, U.S. Coast Guard; telephone 314-269-2560, email Christian.J.Barger@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
COTP	Captain of the Port Sector Upper Mississippi River
DHS	Department of Homeland Security
FR	<i>Federal Register</i>
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

II. Background, Purpose, and Legal Basis

The Captain of the Port Sector Upper Mississippi River (COTP) proposes to amend regulations contained in § 100.801 of the Title 33 of the Code of Federal Regulations (CFR) (33 CFR 100.801) to accurately reflect annual and recurring marine events taking place in the Eighth Coast Guard District. Currently, the text of 33 CFR 100.801 only refers to Table 1, however, the section contains Tables 1 through 7. Additionally, the COTP proposes to amend and update 33 CFR 100.801 Table 2 titled *Sector Upper Mississippi River Annual and Recurring Marine Events* to accurately reflect marine events occurring on a regular basis in the Sector Upper Mississippi River. We propose to remove events that no longer occur or do not meet the criteria of a marine event, and to add new events that do meet the criteria of a marine event. In addition, the COTP proposes to amend Table 2 by updating the details of one marine event, and by rearranging the Table to display events first by the body of water on which they take

place (alphabetically), second by the date(s) on which those events occur, and third by mile marker (descending).

This proposed rule will ensure that the public is accurately informed of annual and recurring events taking place within the Sector Upper Mississippi River Captain of the Port Zone, that the table of annual and recurring events is easy to read, and will considerably reduce administrative burden to both the Coast Guard and recurring marine event sponsors. The Coast Guard is proposing this rulemaking under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231).

The Coast Guard encourages the public to participate in this proposed rulemaking through the comment process so that any necessary changes that are not already contained in this proposed rule can be identified and implemented in a timely and efficient manner.

III. Discussion of Proposed Rule

33 CFR 100.801 contains regulations related to marine parades and regattas. From time to time, this section requires amendment to properly reflect marine events recurring within the Eighth Coast Guard District. This rulemaking proposes amending 33 CFR 100.801 to replace six references to “Table 1” with the words “Tables 1 through 7.”

Additionally, this rulemaking proposes the removal of nine marine events that either no longer take place or do not meet the criteria of a marine event, the addition five marine events, updating details for one marine event, and reorganizing marine events first by the body of water on which they take place (alphabetically), second by the date(s) on which those events occur, and third by mile marker (descending), as follows:

This rulemaking proposes removing these nine marine events from Table 2

Of 33 CFR 100.801:

Date	Event/sponsor	Upper Mississippi River location	Regulated area
1. 1 day—Third Saturday in May	Clear Lake Chapter of the ACBS/That was then, This is Now Boat Show & Exhibition	Quad Cities, IL	Upper Mississippi River mile marker 454.0 to 456.0 (Iowa).
2. 1 day—Third Saturday in March	Lake West Chamber of Commerce/St. Patrick's Water Parade	Lake of the Ozarks, MO	Lake of the Ozarks mile marker 5.0 to 10.0 (Missouri).
4. 2 days—Third weekend in July	Champboat Series LLC/Aquatennial Power Boat Grand Prix	Minneapolis, MN	Upper Mississippi River mile marker 854.8 to 855.8 (Minnesota).
5. 2 days—Third weekend in June	Lake City Chamber of Commerce/Water Ski Days	Lake City, MN	Upper Mississippi River mile marker 772.4 to 772.8 (Minnesota).
6. 2 days—First week of August	River City Days Association/River City Days	Red Wing, MN	Upper Mississippi River mile marker 791.4 to 791.8 (Minnesota).
7. 2 days—Second weekend of September	St. Louis Drag Boat Association/New Athens Drag Boat Race	New Athens, IL	Kaskaskia River mile marker 28.0 to 29.0 (Illinois).
8. 2 days—Third weekend in July	Havana Chamber of Commerce/Havana Boat Races	Havana, IL	Illinois River mile marker 120.3 to 119.7 (Illinois).
9. 3 days—Third weekend in August	K.C. Aviation Expo & Air Show/K.C. Aviation Expo & Air Show	Kansas City, MO	Missouri River mile marker 366.3 to 369.8 (Missouri).
10. 3 days a week from May 4th-September 30th	Twin City River Rats Organization/Twin City River Rats	Twin Cities, MN	Upper Mississippi River mile marker 855.4 to 855.8 (Minnesota).

This rulemaking proposes adding the following five marine events, with the proposed reorganizational formatting of the table, into 33 CFR 100.801 Table 2:

Date	Event	City, State	Regulated Area
Lake of the Ozarks			
1. 2 days – The weekend before Labor Day weekend	Lake of the Ozarks Shootout	Sunrise Beach, MO	Mile marker 34.5 – 32.5
3. 1 day—First	Lake Race	Lake Ozark, MO	Mile marker 4.0 – 0.0

Saturday of June			
Upper Mississippi River			
4. 4 days – Either the first or second week of July	Riverfest	La Crosse, WI	Mile marker 698.5 – 697.5
5. 2 days – Second weekend of August	Great River Tug	LeClaire, IA / Port Byron, IL	Mile marker 497.6 – 497.2
6. 1 day – Third weekend of August	Floatzilla	Bettendorf, IA / Davenport, IA / East Moline, IL / Rock Island, IL	Mile marker 491.0 – 479.0

This rulemaking proposes updating the details of a marine event in Table 2 of 33 CFR 100.801 and reorganize the table as follows:

2. 1 day – Third Saturday of July	Aquapalooza	Osage Beach, MO	Mile marker 19.3 – 18.7
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The effect of this proposed rule, if adopted, would be to restrict general navigation in the regulated areas during the listed events in accordance with the current Special Local Regulations in 33 CFR 100.801. The proposed regulations are necessary to provide for the safety of life on navigable waters during these events

IV. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory

approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This NPRM has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the limited scope and duration of the Special Local Regulations that will be in place during the listed Marine Events. Additionally, this proposed rule seeks only to modify the existing table of marine events by removing nine events that no longer take place, add five events that have been occurring on a regular basis and have been previously subject to the rulemaking process in the past, updates the details of one marine event, and modifies the marine event table for easier reading.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the special local regulations zones may be small entities, for the reasons stated in section IV.A above, this

proposed rule would not have a significant economic impact on any vessel owner or operator.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see ADDRESSES) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

This proposed rule would not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and have determined that it is consistent with the fundamental federalism principles and

preemption requirements described in Executive Order 13132.

Also, this proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this proposed rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves the amendment of existing marine event table found in 33 CFR 100.801 to accurately reflect recurring marine events taking place

within the Eighth Coast Guard District. Normally such actions are categorically excluded from further review under paragraph L61 of Appendix A, Table 1 of DHS Instruction Manual 023-01-001-01, Rev. 01. A preliminary Record of Environmental Consideration will be made available where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at <http://www.regulations.gov>. If your material cannot be submitted using <http://www.regulations.gov>, contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to <https://www.regulations.gov> and will include any personal information you have provided. For more about privacy and the docket, visit <https://www.regulations.gov/privacyNotice>.

Documents mentioned in this NPRM as being available in the docket, and all public comments, will be in our online docket at <https://www.regulations.gov> and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for part 100 continues to read as follows:

Authority: 46 U.S.C. 70041; 33 CFR 1.05-1.

2. Amend §100.801 by revising the introductory text, paragraphs (f), (i), and (j) and Table 2 to §100.801 to read as follows:

§100.801 Annual Events in the Eighth Coast Guard District

The regulations in this section apply to the marine events listed in Tables 1 through 7 of this section. The regulations in this section will be effective annually, for the

duration of each event listed in Tables 1 through 7 to this section. Annual notice of the exact dates and times of the effective period of the regulation with respect to each event, the geographical area, and details concerning the nature of the event and the number of participants and type(s) of vessels involved will also be published in local notices to mariners. Sponsors of events listed in Tables 1 through 7 of this section must submit an application each year in accordance with 33 CFR 100.15.

(f) Any spectator vessel may anchor outside the regulated area specified in Tables 1 through 7 of this section, but may not anchor in, block, or loiter in a navigable channel.

(i) In Tables 1 through 7 to this section, where a regulated area is described by reference to miles of a river, channel or lake, the regulated area includes all waters between the indicated miles as defined by lines drawn perpendicular to shore passing through the indicated points.

(j) In Tables 1 through 7 to this section, where alternative dates are described (“third or fourth Saturday”), the exact date and times will be advertised by the Coast Guard through Local Notices to Mariners and Broadcast Notices to Mariners.

**TABLE 2 TO §100.801 – SECTOR UPPER MISSISSIPPI RIVER ANNUAL
AND RECURRING MARINE EVENTS**

Date	Event	City, State	Regulated Area
Lake of the Ozarks			
1. 2 days – The weekend before Labor Day weekend	Lake of the Ozarks Shootout	Sunrise Beach, MO	Mile marker 34.5 – 32.5
2. 1 day – Third Saturday of July	Aquapalooza	Osage Beach, MO	Mile marker 19.3 – 18.7
3. 1 day—First Saturday of June	Lake Race	Lake Ozark, MO	Mile marker 4.0 – 0.0
Upper Mississippi River			
4. 4 days – Either the first or second week of July	Riverfest	La Crosse, WI	Mile marker 698.5 – 697.5
5. 2 days – Second weekend of August	Great River Tug	LeClaire, IA / Port Byron, IL	Mile marker 497.6 – 497.2
6. 1 day – Third weekend of August	Floatzilla	Bettendorf, IA / Davenport, IA / East Moline, IL / Rock Island, IL	Mile marker 491.0 – 479.0

Dated: April 16, 2019

P.F. THOMAS,
Rear Admiral, U.S. Coast Guard,
Commander, Eighth Coast Guard District

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